

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 08 CR 235
)	Honorable Judge Gottschall
MIGUEL OCON,)	
)	
Defendant.)	

**MOTION TO REQUIRE NOTICE OF INTENTION TO USE OTHER CRIMES
WRONGS OR ACTS EVIDENCE AND INCLUDED MEMORANDUM OF LAW**

Now comes the Defendant, Miguel Ocon, by and through his attorney, Rachel L. Zebio, and pursuant to Rule 12(d) (2), Federal Rules of Criminal Procedure, moves for an order requiring the government to give notice at least four weeks prior to trial of its intention to use at trial of the instant matter, either in its direct case, during the cross-examination of any witness including the defendant, or in its rebuttal case, the following:

1. Evidence of "other crimes, wrongs or acts" of the defendant, as that phrase is used in Federal Rule of Evidence 404(b). In regard to said notice, the government should identify and describe:
 - a. The dates, times, places and persons involved in said crimes, wrong or acts;
 - b. The statements of each participant in said other crimes, wrongs, or acts;
 - c. The documents which contain evidence of said other crimes, wrongs, or acts, including when the documents were prepared, who prepared the documents and who has possession of the documents; and
 - d. The issue or issues to which the government believes such other crimes, wrongs or

acts evidence is relevant within Federal Rule of Evidence 404(b).

Notice of the government's intention to introduce evidence pursuant to Federal Rule of Evidence 404(b) allows the defendant the necessary time to prepare and contest the admissibility of such evidence. In *United States v. Foskey*, 636 F.2d 517 (D.C. Cir. 1980), the court in reversing a defendant's conviction because of the erroneous admission of prior acts evidence, recommended that in the future the government notify the defense before trial of its intention to use any such evidence. *Id.* at 526. The court reasoned that given the complexity of the range of potential 404(b) issues and the confusion which often occurs with prior acts evidence, pre-trial notice may obviate the difficulties and result in a cleaner and more expeditious trial.

WHEREFORE, the Defendant, Miguel Ocon, respectfully requests an order requiring the government to give to the Defendant notice of the government's intention to use at trial, as well as the specific facts, of any evidence of other crimes or wrongful acts by the defendant.

Respectfully submitted,

_____/s/_____

Rachel L. Zebio

Rachel L. Zebio
Attorney for Defendant Ocon
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Chicago, Illinois 60603
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NOTICE OF FILING

**TO: AUSA Nathalina Hudson
U.S. Attorney's Office
219 S. Dearborn, 5th Floor
Chicago, IL 60604**

PLEASE TAKE NOTICE that on June 9, 2008, I filed electronically with the clerk of the United States District Court for the Northern District of Illinois, Eastern Division, the attached, **Motion to Require Notice Of Intention to Use Other Crimes Wrongs Acts Evidence and Included Memorandum of Law.** True and correct copies of each is attached hereto and hereby served upon you.

Respectfully Submitted,

_____/s/_____
Rachel L. Zebio

Rachel L. Zebio
Attorney for Defendant Ocon
190 S. LaSalle Street
Suite #520
Chicago, Illinois 60603
(312)782-2770

Certificate of Service

I, Rachel L. Zebio, an attorney certify that the attached copy of the document stated above

was delivered, electronically, to A.U.S.A. Nathalina Hudson, 219 S. Dearborn, Suite 500, Chicago, IL 60604, and hand delivered to the Honorable Judge Gottschall, 219 S. Dearborn, Room 2356, Chicago, IL 60604 on this 9th day of June, 2008.

_____/s/_____
Rachel L. Zebio

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